

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	JAMES F. HOLDERMAN	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 303	DATE	July 10, 2008
CASE TITLE	Jeffery Latham (B-30158) v. Joseph Burke, et al.		

DOCKET ENTRY TEXT:

Plaintiff's motion for relief from judgment under Fed. R. Civ. P. 60(b) and his motion for the appointment of counsel [19], [20] are denied for lack of jurisdiction. Plaintiff may seek relief and file his motion for appointment of counsel in the Seventh Circuit Court of Appeals. The clerk is directed to send a copy of this order to the PLRA Attorney, U.S. Court of Appeals, and the clerk of the Seventh Circuit to include this order with the record currently before the Seventh Circuit.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

Plaintiff Jeffery Latham (B-30158) has filed a Fed. R. Civ. P. 60(b) motion for relief of this Court's February 12, 2008 judgment dismissing his complaint as untimely. Review of the motion and plaintiff's complaint indicate that, although plaintiff's claims about the May 2005 incident are untimely, his claim of retaliation may be timely.

However, the Court cannot grant the Rule 60(b) motion, given that the case is pending before the Seventh Circuit Court of Appeals. As noted in its May 29, 2008 order, this Court does not have jurisdiction to grant the motion, but may only indicate how the Court would rule if the case were remanded for consideration of the motion. *See Boyko v. Anderson*, 185 F.3d 672, 675-76 (7th Cir. 1999); *Brown v. United States*, 976 F.2d 1104, 1110-11 (7th Cir. 1992). Accordingly, the Court denies the Rule 60(b) motion, as well as his motion for the appointment of counsel, without prejudice to plaintiff seeking relief in the Seventh Circuit Court of Appeals.

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